

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE

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ZENA RAYFORD,	*	
	*	
PLAINTIFF,	*	
	*	
VS.	*	NO. 2:09-cv-02537-dkv
	*	
SIRCHIE FINGER PRINT	*	
LABORATORIES, INC.,	*	
SUPERIOR PRINTING INK	*	
COMPANY, INC., AND R.A.	*	
KERLEY INK ENGINEERS, INC.,	*	
d/b/a KERLEY INK,	*	
	*	
DEFENDANTS.	*	

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MEMORANDUM IN SUPPORT OF  
RULE 41(d) MOTION OF SIRCHIE FINGER PRINT LABORATORIES,  
INC. TO DISMISS PLAINTIFF'S COMPLAINT

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Comes now Defendant Sirchie Finger Print Laboratories,  
Inc. and submits the following in support of its Rule 41(d)  
Motion to Dismiss Plaintiff's Complaint.

CASE HISTORY

On February 1, 2006, Plaintiff filed, through her then  
counsel, Eugene Laurenzi and Lesley Gunther, a Complaint  
against Sirchie Finger Print Laboratories, Inc. claiming  
that she sustained injuries from exposure to fingerprint  
ink while working for Shelby County, Tennessee, as a  
Clerical Specialist B, Fingerprints. Plaintiff also claims

in her Complaint and in her deposition testimony that she was disabled due to her job duties at Shelby County.

A comprehensive deposition was taken of the Plaintiff, multiple witness depositions were taken, and also written discovery was propounded to the Plaintiff. Following the Court's granting of Sirchie's Motion to Exclude Plaintiff's Proffered Expert and Motion to Strike Designation of Dr. Frank Martin as an expert witness, Plaintiff announced that she was going to dismiss her lawsuit.

Attached hereto as Exhibit A is a copy of the Joint Stipulation of Dismissal Without Prejudice that was entered in the case. In that Joint Dismissal the following appears at page 2.

The Parties note that pursuant to Rule 41(d) of the Federal Rules of Civil Procedure, should Plaintiff file an action based on or including the same claim against any of same defendants, the Court may order the Plaintiff to pay all or part of the costs of the previous action and may stay proceedings until the Plaintiff has complied.

Plaintiff thereupon dismissed her action against the defendants on July 30, 2008.

One year later, on July 30, 2009, Plaintiff, acting pro se, refiled her Complaint in Tennessee state court

against the same defendants. This refiled case was removed to this Court.

The costs incurred by Sirchie Finger Print Laboratories, Inc. pertaining to the defense of the original Complaint filed by Plaintiff amount to \$96,831.00. Sirchie requests that pursuant to Rule 41(d), that the Court order the Plaintiff to pay all or part of the costs of the previous action, and that the Court stay the proceedings until the Plaintiff has complied.

Respectfully submitted,

BURCH, PORTER & JOHNSON,  
A Professional Limited Liability Company

BY: s/ DeWitt M. Shy, Jr.  
DeWitt M. Shy, Jr. #5163  
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Memphis, Tennessee 38103  
(901) 524-5000  
e-mail: dshy@bpjlaw.com

Attorneys for Sirchie Finger Print  
Laboratories, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a copy of the foregoing to the plaintiff, Zena Rayford, via U.S. Mail, postage prepaid, at 2179 Stephanie Street, Memphis, TN 38127; and electronically to Nicholas Bragorgos, Esq., Counsel for Superior Printing Ink Company, Inc., 81 Monroe Avenue, Sixth Floor, Memphis, TN 38103; and Garrett Estep, Esq., Counsel for R.A. Kerley Ink Engineers, Inc. d/b/a Kerley Ink, One Commerce Square, Suite 2000, Memphis, TN 38103, this 30<sup>th</sup> day of September, 2009.

/s/ DeWitt M. Shy, Jr.

Respectfully submitted,

BURCH, PORTER & JOHNSON,  
A Professional Limited Liability Company

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/s/ DeWitt M. Shy, Jr.